

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In Re:	)	MPC 15-0203	MPC 110-0803
	)	MPC 208-1003	MPC 163-0803
	)	MPC 148-0803	MPC 126-0803
	)	MPC 106-0803	MPC 209-1003
David S. Chase	)	MPC 140-0803	MPC 89-0703
	)	MPC 122-0803	MPC 90-0703
Respondent	)		MPC 87-0703

**MEMORANDUM IN OPPOSITION TO RESPONDENT'S MOTION TO
RECONSIDER**

Respondent David Chase ("Respondent") has moved the Board to reconsider its order of March 31, 2004. Once again the Respondent fixes on the State's letter to witnesses, written in response to a letter from respondent's counsel, requesting that they provide information to respondent through deposition rather than the informal unilateral interview process recommended by Respondent.¹ Respondent seeks to have the Board, on its own, communicate to witnesses encouraging those witnesses to speak with Respondent's counsel informally, outside the presence of the State. In the alternative the Respondent would have the Board require the State to make such communications. The Board should deny the Respondent's motion.

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¹ Respondent's assertion that the State's letter required a "formal deposition subpoena" is simply not true. The State in its letter offered to facilitate the scheduling of depositions of specific witnesses without the necessity of subpoena if the witnesses so desired. The State's offer remains in effect.

The Respondent continues to exaggerate the import of the letter and its effect on witnesses. The State's purpose in writing the letter was to provide the witnesses the State's response to Respondent's request to meet with witnesses informally. If the Respondent can make requests of witnesses so can the State and the Respondent has yet to provide the Board with any relevant authority to the contrary.

The only evidence that the letter has had the effect on witnesses asserted by Respondent is Respondent's conjecture as to the effect. Respondent has not supplied one iota of evidence that witnesses were willing to speak with Respondent's counsel informally and only changed their mind after receiving the State's letter. Even the oft-quoted testimony of Dr. Devita only indicates that Dr. Devita was willing to agree to the State's request. Dr. Devita does not state in his cited testimony that he was willing to meet with Respondent's counsel informally and then changed his mind after receiving the State's letter.

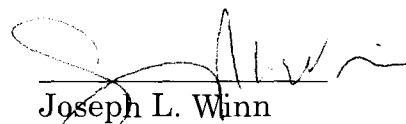
There is simply no evidence that the State's letter in any way interfered with Respondent's ability to muster a defense. On the contrary, it is Respondent's fixation with the State's letter that is the only impediment to the Respondent garnering the information he feels he needs from witnesses to present a defense. Instead of expending energy and resources asking the Board to grant relief from imagined injuries, Respondent's efforts should be directed to interviewing witnesses and scheduling depositions. This is especially true in light of the Board's expressed

wishes in its order of March 31, 2004 to schedule a prompt hearing on the merits.

The Respondent's motion must be **DENIED**.

Dated at Montpelier, Vermont this 16th day of April, 2004.

**WILLIAM SORRELL
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BY**



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